

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

JAMES TOOLEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-12-333-FHS
)	
DAVID KNAGGS,)	
)	
Defendant.)	

OPINION AND ORDER

Defendant, David Knaggs ("Knaggs"), has moved the Court stay these proceedings pending the Tenth Circuit Court of Appeals' decision in the case of Tooley v. City of Konawa, et al., Case No. 12-7050, involving an appeal by Plaintiff, James Tooley ("Tooley"), of the April 26, 2012, Opinion and Order issued by United States Magistrate Judge, Kimberley West, in Case No. 11-110-KEW granting summary judgment in favor of David S. Young ("Young") on Tooley's constitutional claims brought under 42 U.S.C. § 1983. The parties have fully briefed the issues and the matter is ripe for ruling. The Court finds Knaggs' Motion to Stay (Dkt. No. 7) should be granted.

Knaggs was originally named as a defendant in Case No. 11-110-KEW but was dismissed by Judge West for lack of service. Tooley's claims against Knaggs, Young, and the City of Konawa ("the City") arise out of a stop of Tooley's vehicle in Konawa on September 4, 2009. At the time of the stop, both Knaggs and Young were police officers employed by the City. Following the issuance of summary judgment in favor of Young by Judge West in Case No. 11-110-KEW, Tooley commenced a separate action against Knaggs in the District

Court for Seminole County, Oklahoma, on June 13, 2012.¹ This new action was thereafter removed to federal court and is the current action before the Court.

In his motion, Knaggs contends the interests of judicial economy warrant a stay of this matter until the Tenth Circuit rules on the appeal of the summary judgment in favor of Young entered by Judge West in Case No. 11-110-KEW. The Court agrees. The parties agree that the Court has the discretion to stay this matter. A Court has broad discretion to stay a case as incidental to its power to control its docket. See Clinton v. Jones, 520 U.S. 681, 706 (1997); Landis v. North American Co., 299 U.S. 248, 254 (1936) ("the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants."). The two federal court cases at issue here - this action and Case No. 11-110-KEW - arise out of the same incident involving the stop of Tooley's vehicle on September 4, 2009. It is apparent to the Court that for purposes of judicial economy and the maximum utilization of the parties' resources, these cases would be consolidated in the event the Tenth Circuit reverses the summary judgment entered in favor of Young. Given this possibility², the Court concludes it is appropriate to stay

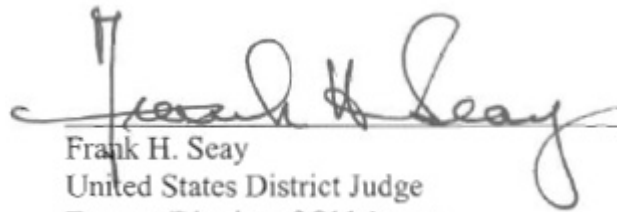
¹ In addition to granting summary judgment in favor of Young, Judge West declined to exercise supplemental jurisdiction over the Tooley's state law claims against Young and the City. Judge West remanded those state law claims to the District Court for Seminole County, Oklahoma. According to Tooley, he has dismissed his claims in state court against Young, leaving only claims against the City pending Seminole County Case No. S-CJ-11-9.

² While it recognizes the *possibility* of a reversal, the Court is in no way expressing any opinion on the merits of Tooley's appeal.

the current action pending the Tenth Circuit's resolution of Tooley's appeal in Case No. 11-110-KEW. Failure to do so would result in parallel litigation involving the same subject matter. The Court finds its discretion is best exercised by awaiting the Tenth Circuit's determination in Case No. 11-110-KEW.

Based on the foregoing reasons, Knaggs' Motion to Stay (Dkt. No. 7) is granted and this action is ordered stayed pending the Tenth Circuit's determination of the appeal in Case No. 11-110-KEW.

It is so ordered this 30th day of August, 2012.



Frank H. Seay
United States District Judge
Eastern District of Oklahoma